

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
APR 5 2018
Clerk, U.S. Courts
District Of Montana
Missoula Division

BRENT ARTHUR WILSON,

Petitioner,

vs.

MICHAEL FLETCHER, ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Respondents.

CV 17-145-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendations in this case on February 20, 2018, recommending that Petitioner Brent Arthur Wilson's ("Wilson") Petition for Writ of Habeas Corpus (Doc. 1) be dismissed with prejudice. (Doc. 14 at 12.) Wilson timely filed an objection on March 14, 2018. (Doc. 15.) Consequently, Wilson is entitled to de novo review of those findings and recommendations to which he has specifically objected. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake

has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). “A party makes a proper objection by identifying the parts of the magistrate’s disposition that the party finds objectionable and presenting legal argument and supporting authority, such that the district court is able to identify the issues and the reasons supporting a contrary result.” *Montana Shooting Sports Ass’n v. Holder*, 2010 WL 4102940, at *2 (D. Mont. Oct. 18, 2010) (citation omitted).

Judge Lynch concluded, and this Court agrees, that Wilson failed to timely file his Petition for Writ of Habeas Corpus and that he has failed to redeem his late filing by establishing actual innocence or entitlement to equitable tolling, despite being given an opportunity to do so. (Doc. 14 at 5–11.) Wilson’s objection amounts to a rehashing of his prior arguments and fails to present any new facts or law to support his meritless arguments. (Doc. 15 at 1–2.) Further, Wilson’s objection fails to either reference or specifically object to any of Judge Lynch’s Findings and Recommendations. Wilson having failed to specifically object to any of Judge Lynch’s Findings and Recommendations, this Court reviews the record for clear error. L.R. 72.3(a); *see also McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Finding none,

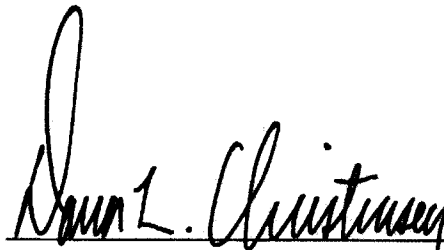
IT IS ORDERED that Judge Lynch's Findings and Recommendations (Doc. 14) are ADOPTED IN FULL.

1. Wilson's Petition for Writ of Habeas Corpus (Doc. 1) is DISMISSED WITH PREJUDICE as untimely.

2. The Clerk of Court is directed to enter, by separate document, a judgment in favor of Respondents and against Petitioner.

3. A Certificate of Appealability is DENIED.

DATED this 5th day of April, 2018.

A handwritten signature in black ink, appearing to read "Dana L. Christensen", is written over a horizontal line.

Dana L. Christensen, Chief District Judge
United States District Court